

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HORIZON GLOBAL AMERICAS INC.,
Plaintiff,

-vs-

Case No. 17-11879
Hon: AVERN COHN

CURT MANUFACTURING, LLC.
Defendant.

CLAIM CONSTRUCTION ORDER

I.

This is a patent case involving multiple patents for automobile trailer hitches. Eight patents are asserted by plaintiff. Two patents are asserted by defendant and cross plaintiff. The following is the schedule for the claim consideration phase of the case.

1. Liability and damages for purposes of trial are bifurcated.
2. Each party shall identify the accused products of the opposite party within 15 days.
3. Each party shall designate the paradigm claims of the respective patent(s) within 30 days. Plaintiff is limited to 5 patents. Defendant is limited to a single patent. Proceedings on the other claims are STAYED until further order of the Court.
4. A tutorial shall be held on September 18, 2018 at 10:00 A.M.
5. Not more than two claims in each patent shall be designated as a paradigm claims. Proceedings on the non-paradigm claims are STAYED until further order

of the Court.

6. Within 30 days following designation of the paradigm claims, the ambiguous words/phrases in the asserted claim shall be identified by the opposite party.

7. Within 30 days following identification of the ambiguous words/phrases the opposite party shall interpret the ambiguous words/phrases.

8. Within 15 days following the interpretation the opposite party may reply.

9. If there is a means-plus-function limitation in a claim the patent holder shall identify with particularity the structural language in the specification.

10. Following completion of the above, the parties shall jointly file a claim construction chart for each claim. A model form is attached.

11. Any objections to this order shall be lodged with the Court within 5 days.

SO ORDERED.



AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: August 2, 2018

CONSTRUCTION OF CLAIM OF U.S. PATENT 5,628,433

Note
for

		PLAINTIFF'S CONSTRUCTION	DEFENDANT'S CONSTRUCTION	COURT'S CLAIM CONSTRUCTION
1	10. A tube for receiving a fluent material comprising:	An integral tube body	No contest with plaintiff's construction.	
2	a hollow tube body being generally cylindrical	which is generally cylindrical.	No contest with plaintiff's construction.	
3	and extending from a rear end	The tube body has a rear end. The term "end" defines an area, and not an edge. (Designated "3a" in the attached drawing)	The tube body has a rear end. The term "end" is defined by the rear edge of the tube body. (Designated "3b" in the attached drawing)	
4	to a nozzle end,	The tube body has a nozzle end. The term "end" defines an area, and not an edge. (Designated "4a" in the attached drawing)	The tube body has a nozzle end. The term "end" is defined by the forward edge of the tube body. (Designated "4b" in the attached drawing)	
5	a plurality of ribs extending radially inwardly from an inner peripheral wall of said tube, said ribs extending radially inwardly for a depth that is less than 0.5% of a diameter of said tube; and	The tube includes ribs extending radially inwardly from an inner peripheral wall of the tube and having the claimed depth.	No contest with plaintiff's construction.	
6	a plunger having an outer peripheral surface closely matched to said inner peripheral surface of said tube,	The plunger has an outer peripheral surface which is closely matched to the inner peripheral surface of the tube.	No contest with plaintiff's construction.	
7	such that when said plunger is received within said tube, air spaces are formed between said plunger and said tube by said ribs, said ribs each occupying an area that is less than 0.5% of the area of said tube,	The air spaces are formed between the outer peripheral surface of the plunger and the inner peripheral surface of the tube by the ribs, with the ribs each occupying an area of the claimed dimension.	No contest with plaintiff's construction.	
8	and said ribs extending to said rear end of said hollow tube body.	The ribs are in the "rear end" (as defined in 3 above) of the hollow tube body.	The ribs extend from a point remote from the rear end "to" the rear end or edge of the tube body.	

c/A
relearn Plastics